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Personnel 8

Approved For Release 2004/04/08 : CIA-RDP62-00631R000300080011-0

9 January 1959

OGC REVIEW
COMPLETED

MEMORANDUM FOR: General Counsel
Comptroller

SUBJECT : Director's and Executive Dining Rooms

1. I am enclosing a study of the operation of the Director's and Executive Dining Rooms conducted by Messrs. [REDACTED]

STATINTL

The study revealed that the cost per meal for the regular, special and official luncheons amounted to approximately \$.90 excluding such overhead expenses as, spoilage of food, free meals for the kitchen personnel and salaries, laundry costs and cost of heat and lights.

2. Since the Director determined that the establishment of the dining facilities was basically to fulfill a necessary official function, I feel that these overhead expenses constitute a reasonable charge which should be borne by the Agency. Therefore, I am recommending that:

a. the sum of \$1.00 per meal continue to be charged the members of the mess for regular, special and official luncheons,

b. the overhead charge of \$10.00 for official luncheons be discontinued and that any deficit incurred as a result of overhead expenses in the operation of the mess over and above the amount collected from the members will be paid from Agency Funds.

ILLEGIB

[REDACTED]
Executive Officer

CONCUR:

DATE:

14 JAN 1959

S/ Lawrence R. Houston
General Counsel

9 FEB 1959

Comptroller

O/DCI/ [REDACTED] 14 Jan 59

Distribution:

Orig - Addressees (For Concurrence)

1 - General Counsel 1 - JMC
1 - Comptroller 1 - AAB
1 - JSE

* Concur subject to approval by the Deputy Director (Support) and the Director.

file
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24 December 1958

STATINTL

MEMORANDUM FOR:

1. I am perfectly willing to concur in the attached but would like to raise an additional point which may be incorporated here. Ever since the dining room was established we have all been in agreement that it was established for a proper official purpose, but according to my files and what I can get from I cannot find that a specific determination to this effect was made for the record. I don't want to make a Federal case out of the matter, but I think we can just have an appropriate statement in the file. As a suggestion, it could be taken care of by a change in the first sentence of your paragraph 2 somewhat along the following lines:

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"Since the Director determined that the establishment of the dining facilities was basically to fulfill a necessary official function, I feel that these overhead expenses constitute a reasonable charge which should be borne by the Agency."

2. If I am wrong and you have somewhere in the record a determination on this point, or if you wish to handle this otherwise, send your present memorandum back and I will concur in it.

L Lawrence R. Houston

Lawrence R. Houston

Att-Memo for GC and Comp
fr EO/DCI, dtd _____,
sub "Director's and
Executive Dining Rooms"

OGC:LRH:jeb
✓ OGC subject- *Personnel*
chrono-no circ

REF ID: A66312

9 July 1958

MEMORANDUM FOR: Executive Officer, DCI

SUBJECT: Director's and Executive Dining Rooms

1. We have reviewed the various papers pertaining to the above subject. Reference is made to a previous memorandum on this subject by this Office dated 18 July 1956, copy of which is attached. We believe the basic legal principle involved is that the Director, under the authorities available to him, may properly establish a dining room and necessary facilities if determined to be necessary for official purposes connected with the unique functions of this Agency. Stemming from this principle, all necessary expenditures of confidential funds for the establishment and operation of the dining room including cost of food for official non-Agency guests are proper expenditures.
2. It further seems appropriate that Agency officials present at such official functions should be required to reimburse a reasonable amount for food consumed. This can best be determined by reference to the audit reports of operations of the mess. In our view, the present practice of charging \$1.00 to Agency personnel in such situations appears to be proper under all the circumstances. This would be applicable to the category of luncheons designated as "official" in paragraph 2 of the study of 17 March 1958.
3. As to the other two categories, "special" and "regular," we believe, for purposes of considering the legal principles applicable to such luncheons, that they are essentially the same. We have previously stated that the use of the dining room by Agency officials for other than official luncheons is appropriate so long as reasonable charges are made. In our view the charge can be determined by first excluding all fixed overhead charges which are determined reasonably necessary to establish and maintain the dining facility for its primary purpose. It is apparent

from the audit report that there are some overhead charges which fairly could be attributed to use of the dining room by Agency personnel and their guests solely for nonofficial purposes. Another way of stating it would be to say that nonofficial use directly and measurably increases the total overhead. Finally there is the cost of food actually consumed.

4. Without question costs of food consumed at nonofficial meals should be passed on to Agency personnel. It is possible that a pro rata portion of the overhead could be justified as an Agency expense on the ground that it is advantageous to the Agency that the individuals concerned have a secure place to gather for lunch to discuss and transact Agency business. In the absence of such a justification and a determination by the Director that this is necessary to carry out the unique functions of the Agency, it is our view that some portion of the overhead should be assessed the individuals. From our interpretation of the figures it would appear that this would necessitate increased charges from 20 to 25 cents per meal for all nonofficial meals.

5. Under the circumstances it appears proper that all charges for operation of the mess, in the first instance, be placed against confidential funds as a proper expenditure by the Agency. Subsequent predetermined reimbursement to the Agency would be required, as appropriate, either in the case of Agency employees attending an "official" meal or employees and their guests attending nonofficial meals.

6. A question might be raised about the policy in Agency Regulation 36-730 which no longer requires Agency personnel present at operational dinners to pay \$1.00 for their meals. However, in this particular situation of the Director's dining room there has been no assertion or justification for the Agency to bear the expenses of food consumed by Agency personnel, although the occasion is "official."

Att - 1

Deputy General Counsel

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cc: IG

DD/S

Comptroller

Audit Staff

u ✓ OGC Subject *Billings & Associates*
OGC Chrono.

OGC/JSW:MKs

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18 July 1956

MEMORANDUM FOR: Deputy Director (Support)

SUBJECT: DCP's Dining Room

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1. In response to your inquiry, this Office has consulted with [] Assistant to the Director, from whom the following factual information has been obtained.

2. The Director currently maintains a kitchen and two adjacent dining rooms in the vicinity of his office. These facilities were originally installed and equipped with confidential funds. When they are used for official functions the required food is also purchased from confidential funds and, in accordance with Agency regulation and Government practice, each Agency employee partaking of a meal (including the Director) pays \$1.00 therefor. When one or both of these dining rooms are not being used for official functions, they are available at lunch time to senior officials of the Agency. These officials initially deposited \$20.00 each, which sum constitutes a non-appropriated revolving fund for the purchase of food. For each meal consumed they pay a flat fee, currently \$1.00, which is adequate to cover the cost of food. The kitchen has two full-time employees, the minimum necessary to provide the required cooking and serving for official functions. In order to augment this small staff, two couriers usually function as waiters for about an hour and a half during lunch period. The full-time mess personnel are not carried on the T/O as mess personnel but as "Administrative Services Assistants."

3. The Director requires for the use of himself and his senior officials a dining room which is physically secure and serviced by cleared personnel where he can hold official functions of an operational or representational nature. When the dining

Since it is sometimes necessary to schedule more than one such

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function at the same time, the refurbishing of the Director's

development of two dining rooms flanking the kitchen. One of these is small and seats about 10 persons; the other is larger and seats perhaps 24. Not infrequently both are used for official functions at the same time.

4. The desirability of an executive dining room, in which senior officials of the Agency can get together for lunch, is not questioned. A good deal of business is transacted at these luncheons. An opportunity is afforded to bring together groups whose otherwise busy schedule might preclude such a meeting if it were not arranged at the meal hour when everyone has to get away from his desk anyway. Since the desirability of such an arrangement is apparent for any Government agency, it might have been difficult in the first instance to sanction solely an executive dining room in the absence of specific statutory authority, although the special security requirements of the Agency would lend some strength to the argument. However, where the dining room has been established by the Director for a justifiable official purpose, its use by his senior officials when it is otherwise unoccupied seems proper so long as they pay for their own food. There might be some question of the legality of assigning two couriers part-time as waiters, but practices of this sort are not entirely unknown in the Government. (For example, there is no general provision in law providing for a recreation and services officer in the various departments and agencies; nevertheless, some employer or employees in every department seems to have that function.)

5. It would seem preferable to place the two full-time employees on the T/O in positions whose titles and descriptions correspond more closely to their actual duties. Since these duties are engaged with the Director's special responsibilities in the operational and representational field, it would be appropriate to pay them from confidential funds. The present method under which they are carried as "administrative" personnel might give the impression that the Agency was seeking to disguise a proper exercise of its functions.

cc: Mr.

Assistant General Counsel

DRAFT
OGC:HRC:bb
24 April 1958

MEMORANDUM FOR: Executive Officer
SUBJECT: Director's Dining Rooms

1. We have been asked to comment on your study of the Director's and executive dining rooms, dated 17 March 1958. This study describes the types of meals served (official, special, and regular), analyzes the operation as it is affected by the three types, and presents in considerable detail the actuarial aspects of the operation as a whole. A policy question is posed in paragraph 7: "Should the Agency continue to pay for the principal part of the food consumed by kitchen personnel and for the laundry used in the mess, or should these costs be borne by an increase in the charge of meals for regular, special and official luncheons?" This memorandum will be concerned specifically with that question.

2. As we understand it, an "official meal" usually involves the presence of a foreign guest. It invariably occurs under circumstances comparable to those contemplated by the policy set forth : "Reimbursement for STAT Special Operational Expenditures." "Special meals" are gatherings of special groupings of Agency, Government, and sometimes private individuals. Such means are usually "nonofficial" in the sense of having no operational purpose. "Regular meals" are those resulting from the utilization of the facility by senior officials for essentially personal reasons. In viewing the Agency's financial role (through confidential funds) in the operation of the dining facility we shall distinguish primarily between official and nonofficial functions, which is to say, between those having and those not having a full operational justification.

3. Official meals:

a. We feel that official meals served in the dining facility are not, in terms of their legal propriety, qualitatively distinguishable from those served

elsewhere. As already indicated, the Agency position on the use of confidential funds to pay for such meals is contained in [redacted], specifically paragraphs 1 and 2a. [redacted]

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expressed in [redacted] is legally sound. In view of the nature of the official functions held in the dining facility, and in the light of established Agency policy, we are of the opinion that all the expenses of such functions can be paid from confidential funds. We therefore recommend that the present \$1.00 flat charge per meal against confidential funds for overhead expenses be discontinued and that either (1) all overhead expenses of the facility or (2) that portion of them attributable to official functions be paid out of confidential funds. The respective merits of these alternatives are sketched briefly in paragraph 4 below.

b. The previous version of [redacted] required an Agency employee present at an operational meal to pay one dollar toward the cost on the grounds that he would have had to eat a meal (worth about a dollar) anyway and therefore would in the absence of payment be deriving an unearned benefit from the Government. The present revised version recognized that the benefit to the employee was really not unconscionable, that collecting the dollar from various employees and issuing receipts was an administrative annoyance of considerable proportion, and that the dollar was in any event a very unrealistic amount. Consequently, under the present regulation, the dollar is no longer required. The dining facility still charged one dollar to Agency personnel present at official meals, a hold-over from the practice under the old regulation. We think it inconsistent to charge the employee a dollar for a meal eaten in the Director's dining room when he would not be charged for the same meal if served elsewhere. We therefore recommend that the charge be discontinued.

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c. Some "special meals" are official in nature; the above principles would apply to them. We therefore agree with the implication in paragraph 6 of your

study that certification as to the official nature of the "special meal" by the DCI, DDCI, or the Executive Officer should be required before the costs are charged against confidential funds.

4. Nonofficial meals:

a. The present arrangement for nonofficial meals is to charge each individual one dollar per meal. This is sufficient to cover the cost of the food eaten by the payer (in fact, ~~it runs~~ about ten cents over). This leaves the matter of overhead (we use this term as it has been used in the study, to embrace all expenses except the cost of the food eaten by the customers). The overhead expenses fall into two categories: those which would remain about the same whether the arrangement for non-official meals existed or not; and those which are directly increased by the serving of nonofficial meals. The former include such items as salaries of mess personnel and utilities. The latter consist mainly of meals for mess personnel, a reasonable margin of waste (through spoilage, etc.), and laundry. We have, then, to inquire (1) what the impact is upon these variable overhead costs from the serving of nonofficial meals and (2) whether or not this impact can properly be absorbed by confidential funds. (We shall take the liberty of using rounded figures, which, we are assured, are representative.)

b. In a typical year 3,600 meals are served at the dining facility. Of these, 600 are official and the remaining 3,000 are nonofficial. Thus, five-sixths of the meals eaten are nonofficial and, presumably, a similar proportion of the variable overhead expenses is attributable to those meals. Thus, with variable overhead expenses of about \$1,200 per year, about 1,000 would be attributable to the nonofficial meals.

c. As mentioned in 4(a) above, the price charged for nonofficial meals exceeds the cost of the food by about ten cents per meal. For 3,000 such meals, then, this is \$300~~0~~, which amount is applicable against the \$1,000 overhead figure, leaving a balance of \$700. The study indicates that additional diners will be sought. The ten cents differential collected from them will undoubtedly

aggregate more than the increase in overhead resulting from the greater number of meals, and this difference will reduce the \$700 balance. Likewise, the study indicates that greater efficiency of operations is foreseen for the future. Other factors remaining constant, this too should have the effect of reducing the uncovered overhead expenses. We are thus brought to a figure of something less than \$700 per year, or about two-thirds the total overhead costs, attributable to nonofficial service.

d. Excluding those involving increased charges to official diners, which we consider improper, and that involving widening the gap between the cost of and the charge for meals, by reducing the quality of the food, which we consider undesirable, the alternative proposals set forth in paragraph 8 of the study all involve ultimately the choice between the pockets of the diners and confidential funds as the source for paying this balance. Choosing the former means boosting the price of nonofficial meals by from twenty to twenty-five cents; choosing the latter requires legal authority. In our opinion such authority exists but only within palpable qualitative and quantitative limits. We attempt to define them in paragraph 5. This means that, subject to such definition, either of the choices stated above may be considered legally proper. Likewise, and on the same condition, the proposals set forth in paragraphs 2b and 2c of Mr. Bricker's memorandum of 19 March 1958 (attached to the study) are legally unobjectionable.

5. In our memorandum of 18 July 1956 to the DD/S, on the subject of the DCI's dining room, we said, "The Director requires for the use of himself and his senior officials a dining room which is physically secure and serviced by cleared personnel where he can hold official functions of an operational or representational nature." We also stated in that memorandum: "Where the dining room has been established by the Director for a justifiable official purpose, its use by his senior officials when it is otherwise unoccupied seems proper so long as they pay for their own food." Whether or not they should contribute toward overhead depends

on the advantages to the Agency involved. We think the continuity of operations which such use affords has certain advantages. But more important is the fact

that the facility is secure and for that reason answers a real Agency need for a place where its senior officials can gather and freely exchange views without fear of compromise, so that, in fact, Agency business is frequently discussed, and even transacted, during the noon hour, albeit in an informal manner. Stated another way, the fact that these gentlemen eat lunch, even that they gather together for that purpose, may be a matter personal to them; but where they go as a group, and what they talk about, may be of real concern to the Agency. It is advantageous to the Agency that these people have a secure place to gather for lunch. We think that, at the present level of overhead, it is entirely reasonable that the Agency maintain the facility so long as the guests pay for their own meals. Whether or not this justification could be applied in a situation involving a new level or new proportion of overhead not directly attributable to official functions would have to be decided on the facts of that situation. Certainly our present position applies only so long as the charge levied covers the cost of the food eaten. We therefore agree that any additional food costs incurred for special luncheons of a nonofficial nature should be passed on to the participants, as suggested in paragraph 6 of the study.

6. Summary of Recommendations.

a. Charge to confidential funds the entire cost of all official meals and those special meals certified as operationally necessary by the DCI, DDCI, or the Executive Officer. This means abolition of the present \$1.00 flat charge.

b. Pay overhead expenses attributable to nonofficial meals (and not covered by the ten cents per meal differential) -

1. By charging confidential funds; or
2. By increasing the charge for nonofficial meals.

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Next 6 Page(s) In Document Exempt

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| CENTRAL INTELLIGENCE AGENCY OFFICIAL ROUTING SLIP | | | |
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| Remarks: | | | |
| <p>You are interested in this problem and I am inclined to agree with [redacted] recommendation. I don't think we have any real justification unless it is to continue this dining room for governmental purposes. If that is so then I think we have a sound basis for ruling that as it is a governmental activity, it is exempt and not go to the Assessor on it.</p> <p>Lawrence R. Houston</p> | | | |

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| General Counsel 221 East | 8/7/56 |

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CENTRAL INTELLIGENCE AGENCY
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Remarks:

I will be glad to discuss the
attached with you at your convenience.



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Remarks:

For your information. Also as to
which knocked out the requirement for the \$1.00
charge, neither Larry nor I know why this was
accomplished nor are we sure that the policy
implications were made clear when it was sent
forward for your approval and the Director's
approval although technically this Office did
concur in the regulation.

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